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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,519	10/15/2004	Hermann Berger	LZ-93PCT	4422
40570	7590	10/11/2006	EXAMINER	
FRIEDRICH KUEFFNER 317 MADISON AVENUE, SUITE 910 NEW YORK, NY 10017			SHARMA, RASHMI K	
			ART UNIT	PAPER NUMBER
			3651	

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/511,519	BERGER, HERMANN	
	Examiner	Art Unit	
	Rashmi K. Sharma	3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10 is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 2004 is/are: a) ☒ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/15/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the two recesses of claim 6 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 4 is objected to because of the following informalities: It is suggested that the terms "i.e." be deleted from the claims. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 is replete with lack of antecedent errors. Claim 6 should recite "...a first opening...". Correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Burgess, Jr. (US Patent number 3,216,556).

Burgess discloses a device for adjusting the angle of a vibrating conveyor (10) driven by a vibratory drive (27), with a vibrating conveyor carrier (11) mounted on the

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vibratory drive (27) and a clamping element (see Figure 3) by means of which the vibrating conveyor can be clamped in a detachable manner to an abutment (20 or 21) of the vibrating conveyor carrier (11) at a minimum of two different angle, wherein the clamping element (20 or 21) has a tension member (60) which is supported on the vibrating conveyor carrier and introduces the clamping force, a tie rod (62, 63) connected to the tension member (60), a manual actuating element (20 or 21) connected to the tie rod (62, 63), wherein the actuating element can be pivoted manually between a position which loosens the vibrating conveyor (10) and a position that clamps the vibrating conveyor, wherein the height of the abutment (20 or 21) is adjustable, wherein the abutment is a cylindrical pin supported in a essentially vertically opening (65) in and upward projecting area of the vibrating conveyor (10), wherein the pin (20 or 21) is parallel to the pivot axis of the vibrating conveyor, and the vibrating conveyor has a contact element (26) which is complimentary to the abutment (20, 21) and is used for clamping, a vertical edge of the opening (65) has at least two recess in which the pin can rest to establish different height positions. Burgess also discloses the vibrating conveyor carrier (11) has a second opening (hole where 20 is mounted in Figure 1) to support the tension member of the clamping element (20 or 21), the second opening extends essentially in the clamping direction and opens to the outside at the upper edge of the upward-projecting area, a support element (13, 22 or 12, 20) supporting the conveyor (10) on the free edge of the upward-projecting area.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 4 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burgess, Jr. (US Patent number 3,216,556).

Burgess, Jr. as disclosed above, fails to show the opening (65) being positioned in the vibrating conveyor carrier (11).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to rotate Figure 3 so that the opening (65) would be mounted to the carrier (11), as either position would be considered to be functionally equivalent to one another.

Allowable Subject Matter

Claim 10 is allowed.

The following is a statement of reasons for the indication of allowable subject matter: Independent claim 10 recites the structural limitation of a device for adjusting the angle of a vibrating conveyor comprising a clamping element having a tie rod parallel to the longitudinal axis of the vibrating conveyor, and in that the manual actuator is a lever arm, which is hinged to the tie rod and has a center of rotation on the vibrating

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conveyor, in combination with the rest of the recited structure, clearly defines over the prior art.

Response to Arguments

Applicant's arguments filed 6/26/2006 have been fully considered but they are not persuasive.

Applicant argues that in Burgess, Jr.'s apparatus the angle of inclination of the vibrating conveyor is constant, however this is incorrect. It should be noted that in Figure 1 of Burgess, Jr., if only springs 12 and 13 were shifted to the furthest mounting hole toward the right on the vibrating conveyor, while spring 14 was not shifted at all, the angle of inclination of Burgess's vibrating conveyor would clearly not be constant. Therefore, the angle of inclination of Burgess's conveyor could indeed shift to achieve two distinctly separate angles.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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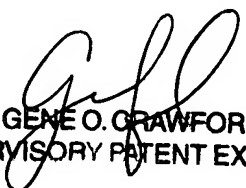
extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rashmi K. Sharma whose telephone number is 571-272-6918. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

rks


GENE O. CRAWFORD
SUPERVISORY PATENT EXAMINER